

A N O R D I N A N C E

TO AMEND CHAPTER 8, "BUSINESSES," OF THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE, BY ADDING ARTICLE XIII, ~~XVI~~, "INSURANCE COMPANIES BUSINESS LICENSE TAX," AND TO ENTER INTO A CONTRACT WITH THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA TO COLLECT THE TAX ON INSURANCE COMPANIES

WHEREAS, the South Carolina General Assembly, in order to ensure consistency with the federal Non-admitted and Reinsurance Reform Act of 2010 ("NRRA"), ratified an act (RAT#283) of June 28, 2012, amending S.C. Code §§ 38-7-16 and 38-45-10 through 38-45-195; and

WHEREAS, the Act establishes a blended broker's premium tax rate of 6 percent comprised of a 4 percent state broker's premium tax and a 2 percent municipal broker's premium tax; and

WHEREAS, the Act states a municipality may not impose on brokers of non-admitted insurance in South Carolina an additional license fee or tax based upon a percentage of premiums; and

WHEREAS, the Act authorizes the Municipal Association of South Carolina to act as the municipal agent for purposes of distributing to municipalities the municipal broker's tax collected by the South Carolina Department of Insurance; and

WHEREAS, it is necessary to amend the Business License Ordinance to conform to the State law as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, that:

Section 1: Chapter Eight of the Business License Ordinance is amended by adding an Article XIII, ~~XVI~~, "Insurance Companies Business License Tax."

a) Insurance Companies: Except as to fire insurance, "gross premiums" means gross premiums written for policies for property or a risk located within the municipality. In addition, "gross premiums" shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company's office located in the municipality, (2) the insurance company's employee conducting business within the municipality, or (3) the office of the insurance company's licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.

Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.

As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include all business conducted in the prior calendar year.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums, or deposit.

Declining rates shall not apply.

Life, Health and Accident 0.75% of Gross Premiums

Fire and Casualty 2.75% of Gross Premiums

Title Insurance..... 2.75% of Gross Premiums

b) Notwithstanding any other provisions of this ordinance, license taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

c) Any exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

d) Pursuant to S.C. Code Ann. §§ 38-45-10 and 38-45-60, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax. The Association is authorized to collect current and delinquent license taxes from insurance companies as authorized by S.C. Code § 5-7-300.

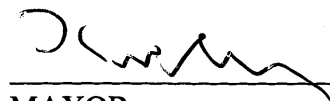
SECTION 2. Prior Article XIII, "Telecommunications Business License Tax," shall become Article XIV, prior Article XIV, "Cable Franchise Regulations and Requirements," shall become Article XV, and prior Article XV, "Establishments Selling Beer and Wine," shall become Article XVI.

SECTION 32. The City Manager is authorized to enter into the contract for administration of the municipal broker's premium tax in substantially the same form as attached as Exhibit A. The City Manager may make minor adjustments to the attached Easement after consultation with the City Attorney, provided they conform to the purposes of this Ordinance

SECTION 43. All ordinances in conflict with this Ordinance are hereby repealed.


SECTION 54. This Ordinance shall be effective on the date of final reading.

DONE, RATIFIED AND PASSED THIS THE 12 DAY OF November, 2012.

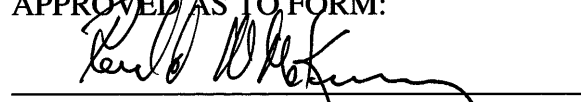


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED:


CITY MANAGER

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) **AGREEMENT WITH
MUNICIPAL ASSOCIATION OF SOUTH CAROLINA
FOR COLLECTION**

THIS AGREEMENT, made and entered into this ____ day of _____, 2012, by and between the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA, hereinafter referred to as "the **Association**," and the CITY OF GREENVILLE, South Carolina, a Municipal Corporation, hereinafter referred to as "**City**."

WITNESSETH

WHEREAS, the **Association** has developed a program for statewide collection of all current and delinquent business license taxes due from insurance companies licensed in this state; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for insurance companies and a uniform due date of May 31 for such license taxes; and

WHEREAS, municipalities are authorized to contract for assistance in collection of business license taxes pursuant to S.C. Code Ann. § 5-7-300; and

WHEREAS, the **Association's** collection of business license taxes from brokers for non-admitted surplus lines insurers is now governed by S.C. Code Ann. § 38-45-10, et seq., which is incorporated herein by reference;

NOW THEREFORE, in consideration of One and No/100 (\$1.00) Dollar and the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is agreed between the parties as follows:

I. **BUSINESS LICENSE TAXES FROM INSURANCE COMPANIES:**

1. The **Association** will make the necessary investigations, develop a database for the **City**, establish procedures for determining the amount of business license taxes due, communicate with insurance companies subject to the taxes, and collect all current and delinquent business license taxes due from insurers on an annual basis.
2. The **Association** will bear all expenses incurred in connection with the services rendered.
3. The **Association** will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes collected for the **City**, less the service charge herein agreed to, will be disbursed to the **City** as collections permit.

4. The **Association** is hereby designated as the exclusive agent of the **City** for assessment and collection of the said business license taxes and penalties utilizing all procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the **City** without further approval by the **City**.
5. The **Association** will notify all insurance companies licensed in the State of this Agreement and the requirement that all business license taxes be paid to the **Association**.
6. The **City** acknowledges that it is an essential element of the programs for all such taxes to be paid to the **Association**, and no such taxes will be accepted, waived or compromised by the **City** directly from or with an insurer. All communications from insurance companies will be sent to the **Association**. Payments accepted by the **City** will be included in the computation of compensation to the **Association**.
7. The **City** agrees that the **Association** shall retain 4 percent of all funds collected for the **City** pursuant to this Agreement, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.

II. MUNICIPAL BROKERS PREMIUM TAX

1. On behalf of its municipalities, the **Association** will communicate with brokers for non-admitted insurance companies subject to the tax in S.C. Code Ann. § 38-45-10, et seq. and will communicate with the South Carolina Department of Insurance on all issues related to the taxes due from brokers per S.C. Code Ann. § 38-45-10, et seq.
2. The **Association** will bear all expenses incurred in connection with the services rendered.
3. Per S.C. Code Ann. § 38-45-10 and ordinance adopted by the **City**, the **Association** is designated as the municipal agent to act on behalf of the **City** for the purposes set out in S.C. Code Ann. §38-45-10, et. seq.
4. S.C. Code Ann. § 38-45-10, et seq., governs the **Association's** receipt from the South Carolina Department of Insurance ("DOI") and distribution to the **City** of all municipal premium taxes from brokers for non-admitted surplus lines insurance. Upon receipt of the taxes from the DOI, the **Association** will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes will be disbursed to the **City**, less the service charge herein agreed to, as collections permit.
5. The **City** agrees that the **Association** shall retain 4 percent of all funds collected or received by the **Association** for the **City** pursuant to this Agreement, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.

III. TERM AND LEGALITY:

1. The **City** represents that this Agreement has been approved by ordinance duly adopted pursuant to S.C. Code Ann. § 5-7-300.

2. This Agreement is effective until December 31, 2022, and shall continue from year to year thereafter until terminated by either party upon 90 days' notice in writing given prior to December 31 of each year.

WITNESSES:

**MUNICIPAL ASSOCIATION OF
SOUTH CAROLINA**

By: _____
Name: _____
Its: _____

WITNESSES:

CITY OF GREENVILLE

By: _____
Name: John F. Castile
Its: City Manager

Approved as to Form:

Legal Department

Reviewed by:

Office of Management and Budget/
Business Licenses